

RESOLUTION NO. 2006 - _____
[Development Agreement with The Preserve at Oak Creek Condominiums]

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SEDONA, ARIZONA, AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY, TO ENTER INTO A DEVELOPMENT AGREEMENT, PURSUANT TO ARIZONA REVISED STATUTES § 9-500.05 (AS AMENDED), WITH COLE INVESTMENT ADVISORS, INC., AN ARIZONA CORPORATION, GOVERNING THE CONDITIONS, TERMS AND REQUIREMENTS FOR THE FUTURE DEVELOPMENT OF PROPERTY KNOWN AS “THE PRESERVE AT OAK CREEK CONDOMINIUMS,” AND TERMINATING THE PRIOR DEVELOPMENT AGREEMENT WITH SEDONA OAK CREEK PARTNERS, LLC, WHEN THE PROJECT WAS KNOWN AS “THE PRESERVE AT OAK CREEK.”

WHEREAS:

- Arizona Revised Statutes § 9-500.05 (as amended) authorizes a municipality, by ordinance or resolution, to enter into development agreements relating to real property located in the city limits, and
- A development agreement shall be consistent with the general or community plan of the city applicable to the property on the date of its execution, and
- Such agreement may specify or otherwise relate to its duration, permitted uses and densities, building heights, preservation of historic or environmentally sensitive lands, phasing or time of construction of improvements, or any other matters relating to the development of the property, and
- The burdens of the development agreement are binding on, and the benefits of the development agreement inure to, the parties to the agreement and all their successors in interest and assigns by recording a copy of the agreement in Coconino County, Arizona, within ten (10) days of its execution, such recordation constituting notice of its terms and conditions, and
- A development agreement may be amended, or cancelled in whole or in part, by mutual consent of the parties to the development agreement, or by their successors in interest or assigns, and
- Cole Investment Advisors, Inc., an Arizona corporation (“Developer”) and the City of Sedona, an Arizona municipal corporation (“City”), desire to enter into a development agreement in connection with Developer’s proposed planned development project for certain real property consisting of approximately 22 acres bisected by Highway 89A at the northern entrance to the City, and to terminate an existing development agreement and plan for the property known as “The Preserve at Oak Creek,” to which Developer is a successor in interest, and
- Developer and the City (collectively, the “Parties”), desire to agree to certain conditions, terms and requirements for the development of the subject property by agreeing upon certain grants, considerations, and concessions made by Developer in favor of the City, and by also setting forth certain development rights and assurances on Developer’s behalf, and

- The Planning & Zoning Commission of the City granted development review of the first phase of the project (the Hillside development) pursuant to the Land Development Code of the City, on December 6, 2005, and
- The City Council will be asked, along with approval of the Development Agreement, to take action on the preliminary plat (SUB2005-19), amend the City of Sedona Land Use Map (CPA2005-5), and approve zoning map change to PD (Planned Development)(ZC2005-7) to allow for the amended site plan consistent with the Development Agreement,

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, THAT:

1. *Development Agreement Approval.* The form development agreement negotiated by the Parties to accomplish the above-stated purposes (the “Agreement”), incorporated herein as Exhibit A, is consistent with the general and community plan of the City of Sedona as it is currently applicable to the property, and is hereby approved. The agreement is in the best interests of the City and the citizens hereof, and meets the requirements and form of ARS § 9-500.05 (as amended). The Mayor is hereby authorized to execute and enter into the Agreement on behalf of the City upon final approval as to form by the City Attorney.
2. *Recordation.* Not later than ten (10) days after the Mayor executes the Agreement, the City shall record a copy with the Coconino County Recorder pursuant to ARS § 9-500.05.D.
3. *Cancellation of “The Preserve at Oak Creek” Development Agreement.* The Parties hereby cancel the prior development agreement for the property pursuant to ARS § 9-500.05.C, known as “The Preserve at Oak Creek,” wherein the owners and developers were predecessors in interest to the Developer, dated April 26, 2005, recorded as document No. 3323518 in the Official Records of Coconino County Recorder’s Office, Arizona, pages 1-59.
4. *Collateral Action by the City.* The Agreement is to be interpreted with, and subject to, any conditions applied by the City in approval of the PD (Planned Development) amendment to the site plan following zone change procedures (ZC2005-7), amendment of the City of Sedona Land Use Map (CPA2005-5) and the Preliminary Plat approval for the project (SUB2005-19). The Agreement shall not be operative and in effect until council action on those items has been completed, and, if either is rejected, shall be null and void.

....

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona,
Arizona, this 24th day of January, 2006.

CITY OF SEDONA

By _____
Susan Solomon, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney